

L-3 MEDICAL DIRECTORSHIPS

FREQUENTLY ASKED QUESTIONS

December 17, 2004, March 1, 2007, November 1, 2008

Updated: February 1, 2017

1. **Question:** Can we offer a medical directorship to a physician if one purpose of offering the medical directorship is to either retain the physician on our staff or entice the physician to join our staff?

Answer: No. Under no circumstance will a medical directorship arrangement involve a hospital paying remuneration to a physician, directly or indirectly, with the intent to induce the physician to refer patients to, or otherwise generate business for, any hospital. (See, Policy at section II.E). Further, the selection of a physician to serve as a medical director shall not be based on his or her past or anticipated referrals.

2. **Question:** Is it appropriate to compensate directors for 24/7 availability to consult with hospital staff if the hospital sufficiently documents the specific areas/issues that arise regularly and require consultation, the medical director's responsiveness historically (if response time required if a new medical director), etc.? Are there medical director positions for which a physician may be paid for clinical services or availability?

Answer: In general, medical directors are to be compensated for administrative services performed, not for general availability or clinical services. Also, medical directors are not compensated for certain excluded duties as set forth in section V.A.5.d, Step 5.d. of the Policy. As indicated in that section of the Policy, designated duties shall not include "clinical duties for which a proposed medical director or an affiliated group practice is permitted to bill and retain payment from patients or third party payers."

There are limited circumstances under which applicable regulations require a medical director to provide clinical services or availability. An inpatient rehabilitation unit requires a medical director to perform certain clinical services that can be billed directly by the medical director under CPT codes 97001 and 97002 (the "Clinical Services"). The medical director's duties will be divided into Clinical Services and those services which are administrative in nature and therefore not billable (the "Administrative Services"). The Hospital will compensate the Director only for the Administrative Services which are detailed on the medical director logs. The medical director should enter in the designated area on the log form the number of hours spent providing "Clinical Services" which may be used to satisfy the 20 hours per week required under 42 C.F.R. 29 as well as the Administrative Services. Additionally, clinical coverage is required for cardiac rehabilitation programs, and it may be appropriate for the medical director to provide this coverage concurrently with the contracted medical administrative services.

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3. **Question:** Is a Tenet entity required to compensate hospital-based physicians for administrative services (e.g., Director of Pathology) if the physicians and/or physician group have an exclusive agreement to provide services at the Tenet entity?

Answer: Not necessarily. A hospital is not required to compensate hospital-based physicians for reasonable administrative services performed when the hospital grants an exclusive agreement to the group. The determination of whether to compensate hospital-based physicians will be a factual determination based on the scope and level of services required and whether those services are reasonable and directly related to the hospital based services. Please consult your Operations Counsel for guidance in these circumstances.

4. **Question:** (i) Is a Tenet entity required to pay a physician compensation for administrative services performed, and (ii) can it pay less than the hourly rate amount set forth in section IV.A.4, Step 4 of the medical directorship and personal services policies?

Answer: (i) No. A Tenet entity is not required to compensate a physician for administrative services if the physician agrees to perform the services without compensation, provided that it is determined that the physician is not providing the administrative services without compensation in order to obtain referrals from the Tenet entity.

Answer: (ii) Yes. A physician may be paid less than the hourly rate set forth in section IV.A.4, Step 4 of the medical directorship and personal services policies. There are a variety of reasons why the hourly rate may be less than the formula's hourly rate and constitute fair market value such as the physician's credentials, experience, etc. However, fair market value must not be calculated in a manner that takes into account the volume or value of the physician's referrals to the Tenet entity or from the Tenet entity to the physician.